United Nations A/54/169

General Assembly

Distr.: General
13 July 1999

Original: English

Fifty-fourth session
Items 119 and 128 of the preliminary list*

Review of the efficiency of the administrative and financial functioning of the United Nations

Report of the Secretary-General on the activities of the Office of Internal Oversight Services

Investigation into the award of a fresh rations contract in a United Nations peacekeeping mission

Note by the Secretary-General

1. Pursuant to General Assembly resolution 48/218 B of 29 July 1994, the Secretary-General has the honour to transmit herewith, for the attention of the Assembly, the report conveyed to him by the Under-Secretary-General for Internal Oversight Services on the investigation into the award of a fresh rations contract in a United Nations peacekeeping mission.

2. The Secretary-General takes note of the findings and concurs with the recommendations set out in the report.

* A/54/50.

99-20711 (E) 020899

Report of the Office of Internal Oversight Services on the investigation into the award of a fresh rations contract in a United Nations peacekeeping mission

Summary

The Investigations Section of the Office of Internal Oversight Services received a series of complaints concerning the actions of the Chief Administrative Officer and the Chief Financial Officer of a United Nations peacekeeping mission.

The findings of the investigation indicated mismanagement and abuse of authority (see ST/IC/1996/29 of 25 April 1996), including violations of the United Nations procurement policy and financial rules (rules 110.17–110.21). Specifically, the Office of Internal Oversight Services found efforts by the Chief Administrative Officer and the Chief Financial Officer to manipulate the Local Committee on Contracts in connection with the selection of a fresh rations contractor to favour the incumbent contractor. The resulting delays in awarding a new contract caused financial damage to the Organization in the range of US$ 17,000.

Both the Chief Administrative Officer and the Chief Financial Officer were presented with the evidence in the course of the investigation. However, neither of them was able to provide viable alternative justifications or information to challenge the information provided by others, including military and civilian staff in the Mission and at Headquarters, or the documentary and photographic evidence obtained. Opportunities to clarify their positions or to make statements in connection with the inquiry were offered to them, but neither availed themselves of those opportunities.

Upon receipt of the information provided by the investigators, the Mission's Force Commander, in his capacity as Head of Mission, took prompt action to correct the problems with the award of the fresh rations contract. It is clear that such action would have been taken earlier had the Force Commander been given full, complete and accurate information by the Mission's senior staff. However, it is also clear that other mission staff were intimidated by the Chief Administrative Officer's authority and were uncomfortable with the idea of taking problems which were within the province of the civilian administration to the Force Commander.

In June 1996, the Office of Internal Oversight Services submitted a report on the investigation to the Department of Peacekeeping Operations recommending that disciplinary charges be filed against the Chief Administrative Officer and the Chief Financial Officer.

The Department of Peacekeeping Operations agreed with the findings set out in the report and accepted the recommendations. The Joint Disciplinary Committee deliberated on the case and a copy of its report and the decision of the Organization was transmitted to the staff members in late 1998.

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I. Introduction

1. Following receipt of a series of allegations of wrongful conduct on the part of the Chief Administrative Officer and the Chief Finance Officer of a United Nations peacekeeping mission in connection with the award of contracts, the Investigations Section of the Office of Internal Oversight Services launched an investigation. The investigation was conducted from March to June 1996 and a report on the findings and recommendations was submitted to the Department of Peacekeeping Operations in June 1996. Pending the deliberations of the Joint Disciplinary Committee, the Office of Internal Oversight Services decided to postpone the issuance of the present report. A copy of the report of the Joint Disciplinary Committee and the decision of the Organization was transmitted to the staff members concerned in late 1998. *The Department of Peacekeeping Operations agreed with the findings set out in the report and accepted the recommendations.*

II. Investigation

A. History of contracts with one contractor

2. For more than a decade, a specific contractor (the incumbent contractor) had been supplying fresh rations (fruit, vegetables, eggs and bread) to a United Nations peacekeeping mission (hereinafter, the "Mission").

3. The incumbent contractor's 1994/95 contract was due to expire on 30 November 1995 and, in preparation for a new 19-month contract, invitations to bid were issued 6 October. By the bid opening date of 1 November 1995, 24 bids had been received. After evaluating the bids, the procurement staff of the Mission prepared a report for the Local Committee on Contracts recommending another company (company "A"), which had ranked first with a bid of approximately $605,000 for the new contract. The incumbent contractor ranked fourth, with a bid of approximately $780,000.

4. Subsequently, the Local Committee on Contracts held three meetings in November without selecting a bidder. The Committee, which was chaired by the Chief Administrative Officer and comprised the Chief Financial Officer, the Chief of General Services and the Chief Logistics Officer, first met on 14 November 1995. The Chief Procurement Officer, who was not a member of the Committee, presented the recommendation to award the contract to company "A", as that firm had provided the lowest bid. From that first meeting, the Committee was split: the Chief Administrative Officer and the Chief Financial Officer strongly supported the award of the new contract to the incumbent contractor and the Chief Logistics Officer and the Chief of General Services supported the lowest bid, namely, company "A".

5. During the meetings of the Local Committee on Contracts, the Chief Administrative Officer introduced several additional requirements for the bidders that had not been included in the invitations to bid. He also raised objections against the lowest bidder on health grounds. As both the Chief Administrative Officer and the Chief Financial Officer began to manifest a preference for awarding the contract to the incumbent contractor, the Mission's procurement staff commenced producing documentary evidence from the Mission's files which revealed a decade-long history of numerous complaints about the quality and type of rations procured by the incumbent contractor.

B. Chief Administrative Officer twice extends the contract of the incumbent contractor

6. At the end of November 1995, after three inconclusive Local Committee on Contracts meetings, the Chief Administrative Officer decided that the incumbent contractor should be given a two-month contract extension, as the contract was due to expire at the end of November 1995. The extension until January 1996 was to cost no more than the Mission's delegated local spending authority of US$ 70,000. However, the true cost was nearly US$ 80,000, or US$ 10,000 in excess of that ceiling, which should have led to referral to United Nations Headquarters before such a decision was taken.

7. Although the Chief Administrative Officer knew of the pressing need to find a fresh produce contractor for the Mission, he did not call another Local Committee on Contracts meeting for two months, namely, until 31 January 1996. The Chief Administrative Officer and the Chief Financial Officer reported having had other business to attend to and had both been on leave in New York for the holidays. At the Local Committee on Contracts meeting on 31 January 1996, both the Chief Administrative Officer and the Chief Financial Officer reasserted their support for the incumbent contractor, thereby blocking the Local Committee on Contracts from recommending that a contract be given to the lowest bidder. The deadlock forced the Local Committee on Contracts into a second contract extension, at an additional cost of $71,796. The Chief Administrative

Officer told the Local Committee on Contracts, that while he had been in New York on holiday in December 1995, he had met with three officials from the Field Administration and Logistics Division, who had authorized the further extension. However, the investigation later revealed that no Field Administration and Logistics Division officials had provided such authorization.

8. Hereunder is a description of how the Chief Administrative Officer and Chief Financial Officer set out to mislead and manipulate the Local Committee on Contracts with a view to favouring the incumbent contractor.

C. First challenge to the proposed change in contractors: discredited health justification

9. Both the Chief Administrative Officer and Chief Financial Officer argued to the Local Committee on Contracts that there existed justification for the United Nations to spend the additional $150,000 on the incumbent contractor's bid, because the latter had supplied produce from a neighbouring country and not the host country. They argued that locally produced fresh vegetables and fruit were unsafe, owing to the agricultural process used by the host country and that no other local bidder could thus be trusted.

10. However, in the course of the investigation, it was found that neither the Chief Administrative Officer nor the Chief Financial Officer could have believed that the incumbent contractor had exclusively supplied produce from the neighbouring country. In addition, both officers admitted that they themselves consumed fresh fruits and vegetables that they bought at the local market in the host country. Moreover, the Mission's own military health, medical and hygiene officers confirmed that there was no basis for believing that host-country procured produce was any more or less of a health risk than that grown by other countries in the region. Furthermore, both the Chief Administrative Officer and Chief Financial Officer had been advised on a number of occasions that the Mission's military staff that transported the incumbent contractor's produce in the Mission's truck with the incumbent contractor's staff, had observed that some of the latter's produce was often collected in the host country.

D. Imposition of three new requirements

1. Ministerial clearance certificates

11. When the health justification had been discredited, the Chief Administrative Officer imposed a new series of requirements on the bidders which had not been included in the invitations to bid. At the 14 November 1995 Local Committee on Contracts meeting, he announced that the bidders would have to produce clearance certificates from the host country's Ministries of Agriculture, Defence and Foreign Affairs. Mission procurement staff and the other participants in the Local Committee on Contracts stated that the request for certificates was improper, because it had not been a requirement in the invitations to bid. To this challenge, the Chief Administrative Officer replied that he had been advised by a host country government official that written authorizations were needed from the three ministries. However, a local lawyer hired to provide advice on questions of trade and host country's regulations provided legal information to the effect that there was no restriction on the Mission's right to conclude agreements with any suppliers, and that there was no legal need for such certificates. The Chief Administrative Officer suggested that the legal advice be disregarded.

12. Although the Chief Administrative Officer insisted on the requirement for all bidders to submit ministerial clearance certificates, he ordered that the Mission's procurement staff waive the obligation for the incumbent contractor.

13. At a meeting held on 22 November 1995, all bidders were informed that they would have to produce authorization certificates from the three ministries mentioned above. Several bidders advised that they had approached those ministries and had been told that there was no need for such authorization.

14. Later, when asked by the investigators when and how the host country government official had communicated to him the need for the certificates, the Chief Administrative Officer replied that he could not recall exactly.

2. Site inspection

15. At the 22 November 1995 meeting, the bidders were also advised that their facilities would be inspected and evaluated by the Mission. Subsequently, the Local Committee on Contracts members inspected the premises of the lowest bidder and the bidders ranked second and third. They found that company "A" had a large facility with refrigeration rooms, loading docks and a good quality and

assortment of fresh and dried rations, much of which appeared to be imported.

16. However, when Local Committee on Contracts members declared their intent to inspect also the incumbent contractor's premises, which were located in a neighbouring country, the Chief Administrative Officer would not authorize the one-day trip. He eventually authorized the trip under the unique condition that the Local Committee on Contracts vote to award the contract to the incumbent contractor prior to inspecting his premises.

17. However, on his own initiative one of the members of the Local Committee on Contracts drove to the incumbent contractor's premises in the neighbouring country, to the alleged incumbent contractor drop-off point and found that the facility consisted of a small room which was only about 12 feet by 20 feet in size. It had no refrigeration facilities, no loading dock, no storage space and no pallets to lift the baskets or cartons of fruit and vegetables off the floor. In fact, the facility had less space than the United Nations truck sent to collect the Mission's fresh rations.

18. When later questioned on this point by the investigation team, the Chief Administrative Officer stated that, in any event, if it had been later discovered that the incumbent contractor did not have any facilities in the neighbouring country, the contract could always have been cancelled.

3. Company registration

19. As each successive barrier imposed on the Local Committee on Contracts by the Chief Administrative Officer and supported by the Chief Financial Officer fell, the Chief Administrative Officer introduced a new one. The next barrier consisted of a request by the Chief Administrative Officer that the lowest bidder (company "A") submit its original company registration. However, when this was done and the challenging parties in the Local Committee on Contracts asked why the incumbent contractor had not been asked to do the same, the Chief Administrative Officer decided to exempt the incumbent contractor from that requirement.

E. Second challenge to the proposed change in contractors: false statements to the Local Committee on Contracts

20. At the very end of the 31 January 1996 meeting of the Local Committee on Contracts, when the imposition of new requirements had failed to persuade the Committee to select the incumbent contractor, the Chief Administrative Officer launched yet another challenge to the selection of the lowest bidder (company "A"): he advised the Local Committee on Contracts that the Field Administration and Logistics Division had directed that the fresh rations contract be rebid, because the average monthly consumption figures in the abstract of bids were not all the same as those in the invitation to bid.

21. Also at the end of the Local Committee on Contracts meeting, the Chief Administrative Officer provided the members with copies of a memorandum noting the quantity changes and the conclusion reached by the Chief Administrative Officer that the incumbent contractor was now the lowest bidder. This was done despite the fact that, earlier that day, the Chief Administrative Officer had been advised by the Mission's procurement staff that the calculations and the conclusion set out in the memorandum were wrong and that, after recalculating the quantities, the lowest bidder was still company "A" and the incumbent contractor's position remained fourth.

F. Subsequent events

22. Because the Chief Administrative Officer and Chief Financial Officer could not succeed in securing an agreement of the Local Committee on Contracts in favour of the incumbent contractor, the Chief Administrative Officer ordered that the bidding exercise be annulled and that a new one be conducted. This resulted in the Mission issuing a fresh round of invitations to bid in February 1996. Nevertheless, upon receipt of the new bids, the ranking results were unchanged and company "A" still remained the lowest bidder. By that time, the Mission was on the verge of yet a third contract extension for the incumbent contractor.

23. Following a briefing on the deadlock in the Local Committee on Contracts, and the imminent failure to select a contractor before the extension expiration date of 31 March 1996, the Force Commander directed the Chief Financial Officer and Chief Procurement Officer to prepare a comparison between the bids presented by company "A" and the incumbent contractor. At a meeting of the expanded Local Committee on Contracts, convened by the Force Commander as temporary Chairman, a vote was taken and the lowest bidder, company "A", was awarded the contract. However, as recommended by the Mission's procurement staff, the Force Commander directed that the contract be for a provisional period, during which the quality, service and

actual costs would be evaluated before extending the contract for its full term.

III. Conclusions

24. As a result of the investigation, the Office of Internal Oversight Services submitted a detailed report to the Department of Peacekeeping Operations listing the evidence and noting that the Chief Administrative Officer and Chief Financial Officer had failed in their respective responsibilities; had demonstrated favouritism to the long-term incumbent contractor; had wasted United Nations funds when they improperly extended the fresh rations contract on two occasions to the incumbent contractor at an estimated total value of US$ 150,000, without the prior knowledge or recommendation of the Field Administration and Logistics Division or the Headquarters Committee on Contracts; and had provided false information to the Local Committee on Contracts. In the report, the Office of Internal Oversight Services also noted that the Chief Financial Officer had failed to ensure that the Chief Administrative Officer adhered to all the financial rules and regulations of the Organization.

25. The Office of Internal Oversight Services is especially concerned that the Chief Administrative Officer abused his authority as Chairman of the Local Committee on Contracts to manipulate the procurement process and favour a contractor. He thus abused the authority which was vested in him to ensure the integrity of the procurement process and protect it from bias. The Office of Internal Oversight Services also points out that the four-month extension of the incumbent contractor's contract, which had resulted directly from the manipulation efforts of the Chief Administrative Officer and Chief Financial Officer had caused the Organization a financial loss of some $17,000.

IV. Recommendations of the Office of Internal Oversight Services

26. The Office of Internal Oversight Services issued the following recommendations, all of which have been implemented by the Department of Peacekeeping Operations:

(a) Disciplinary charges should be filed against the Chief Administrative Officer and Chief Financial Officer (IV95/146/01);

(b) The other members of the Local Committee on Contracts, namely, the Chief of General Services, the Chief Logistics Officer and their designees, should be commended for adhering to the rules and regulations of the Organization with regard to the fresh rations contract, despite pressure from the Chief Administrative Officer (IV95/146/02);

(c) The incumbent contractor should be given no further contracts without demonstrating that he can meet all of the specifications, and the performance of company "A" should be monitored (IV95/146/03).

27. Regarding the disciplinary charges, it should be noted that the Under-Secretary-General for Management, upon advice rendered by the Joint Disciplinary Committee, decided to censure both the Chief Administrative Officer and the Chief Financial Officer. That decision is being appealed at the Administrative Tribunal.

(*Signed*) Karl Th. **Paschke**
Under-Secretary-General for
Internal Oversight Services